



THE CITY OF NEW YORK
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January 8, 2010

BY ECF

Honorable Ramon E. Reyes, Jr.
United States Magistrate Judge
United States Courthouse
Eastern District of New York
225 Cadman Plaza East, Room 263
Brooklyn, New York 11201

Re: Kumalo Thorpe, et al. v. City of New York, et al.
09 CV 2029 (RJD) (RER)

Your Honor:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for the defendants in the above matter. Attached please find a duly executed Stipulation and Order of Settlement and Dismissal dated January 7, 2010, for Your Honor's endorsement and filing.

Thank you for your consideration.

Respectfully submitted,

/s/
Baree N. Fett (BF9416)
Assistant Corporation Counsel

cc: Richard Cardinale, Esq.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KUMALO THORPE,

Plaintiff,

-against-

**STIPULATION AND
ORDER OF SETTLEMENT
AND DISMISSAL**

09 CV 2029 (RJD) (RER)

CITY OF NEW YORK, POLICE OFFICER JOSHUA
BAEZ, shield # 5276, POLICE OFFICER STEVE
RICHARDS, shield # 2946, POLICE OFFICER HECTOR
TORRES, shield # 1787, SERGEANT JOSEPH
DURANTE, shield # 521,

Defendants.
----- X

WHEREAS, plaintiff commenced this action by filing a complaint on or about May 13, 2009, and an amended complaint on or about November 13, 2009, alleging violations of his federal and state rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the remaining issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. Defendant City of New York hereby agrees to pay plaintiff KUMALO THORPE, Twenty Thousand Dollars (\$20,000.00) in full satisfaction of all claims, including

claims for costs, expenses and attorney fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against defendants with prejudice, and to release defendants Joshua Baez, Steve Richards, Hector Torres, Joseph Durante and the City of New York and any present or former employees or agents of the City of New York or any agency thereof, from any and all liability, claims, or rights of action under federal and/or state law arising from and contained in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff shall execute and deliver to the defendants' attorney all documents necessary to effect this settlement, including, without limitation, General Releases based on the terms of paragraph "2" above and an Affidavit of Status of Liens.

4. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or the New York City Police Department.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York

January 7, 2010

RICHARD J. CARDINALE, ESQ.
Attorney for Plaintiff
26 Court Street, Suite 1815
Brooklyn, New York 11242
(718) 624-9391

By: 

RICHARD CARDINALE
(RC8567)

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Baez, Richards, Torres and Durante*
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By: 

BAREE N. FETT (BF9416)
Assistant Corporation Counsel

SO ORDERED:

U.S.D.J.